

EXHIBIT A

In The Matter Of:

*Estate of Marissa Rose Fishman v.
Richard Longwill*

*Corporal Claudine Malone
May 17, 2006*

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[1] Marissa went upstairs to brush her teeth. During that
[2] time period, the grandmother of Marissa walked --
[3] opened the door from the kitchen area to the pool area
[4] to ask the workers if they would move a table and
[5] chairs -- a set of table and chairs that were in the
[6] pool area to the outside so that she could clean or do
[7] something in that area. And when she did that, she
[8] left the door open and it was in that time that
[9] Marissa wandered out to the pool area and we suspect
[10] reached for a toy that was floating inside the pool
[11] since there was no one else in that area at the time.
[12] Q. Let's back up for a second.
[13] A. Okay.
[14] Q. Was it your understanding that the
[15] construction workers were taking a table from the pool
[16] area out to the patio to clean or the other way
[17] around?
[18] A. It was my understanding that she -- that
[19] grandmom had asked them to move something for her from
[20] the pool area to the outside.
[21] Q. Okay. And that's just going on your -- on
[22] your memory and recollection?
[23] A. My recollection, yes.
[24] Q. Okay. I'm just going to represent to you that

[1] workers working on the residence. I guess I should
[2] read the whole thing.
[3] A. I recall reading that also.
[4] Q. Okay. As you read that, does that refresh
[5] your recollection as to who left that door open?
[6] A. That is -- that is different from my
[7] recollection of -- of what -- the statements that I
[8] received that day.
[9] Q. Okay. And that was a statement -- we just
[10] talked to Officer Schlosser.
[11] A. Mm-hmm.
[12] Q. But that was a statement that he received from
[13] both -- from both Alexandra and Barbara.
[14] A. Okay.
[15] Q. And you have an understanding that Barbara is
[16] the grandmother?
[17] A. Grandmother.
[18] Q. Okay. This initial -- just so we're clear.
[19] that's not -- that's different than what you recall?
[20] A. That is different from what I recall.
[21] Q. As you sit here today, do you know if you put
[22] in your report that aunt told you that grandmother,
[23] meaning Barbara, had left that door open?
[24] A. I could only guess that I would have put that

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[1] we've taken some various depositions in the case --
[2] A. Mm-hmm.
[3] Q. -- including the grandmother and it's our
[4] understanding that the construction workers were
[5] instructed to take the patio furniture from the
[6] outside patio into the pool area.
[7] A. Okay. Well, that may very well be. I may be
[8] incorrect.
[9] Q. That's fine. Additionally, you said that you
[10] were informed that the grandmother left the door open?
[11] A. That's what I recall, yes.
[12] Q. And this is something -- the information that
[13] you received from whom; is that from the sister, from
[14] the aunt?
[15] A. From the sister, yes, from the aunt.
[16] Q. Since you don't have a copy of it, I'm just
[17] going to show you the investigative narrative that was
[18] conducted by Officer Schlosser.
[19] A. Yes.
[20] Q. One, two -- third paragraph. I actually
[21] highlighted it.
[22] A. Yes.
[23] Q. Do you see where it says -- I'm reading upside
[24] down, but door that was left open by construction

[1] because if it was contained in any interview and it
[2] stuck in my mind, then it would be documented as such.
[3] Q. Okay. If it's not -- and we're going to do
[4] everything we can to get that report.
[5] A. Sure.
[6] Q. But if it's not in your report, you believe
[7] it's a possibility that maybe your recollection is
[8] wrong as to what the aunt told you?
[9] A. I am certain that I was informed that grandmom
[10] left the door open because it was explained to me that
[11] that was why grandmom was that particularly despondent
[12] about Marissa being in the hospital, being hurt,
[13] subsequently dying, because she had left that door
[14] open and that it was particularly chaotic in the
[15] household which is -- as we all know sitting here
[16] today, when these accidents occur, when everything is
[17] not as it normally is and something is disrupted,
[18] something like this happens.
[19] Q. Did Deborah tell you where she got that
[20] information from, that grandmother had left the door
[21] open?
[22] A. Not that I recall.
[23] Q. Okay. Anything else that you can tell me
[24] about the interview that you conducted with Deborah

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(1) Fox?
(2) A. She frequently conveyed that this was a
(3) difficult time for the family, for her sister in
(4) particular and her sister's husband -- I thought they
(5) had had four children, I may be mistaken -- and hard
(6) on the kids and that the kids had been kind of
(7) recently transplanted to the grandparents' house
(8) because they had been separated. So everything wasn't
(9) as it normally was.
(10) Q. Did Deborah convey any information to you
(11) about construction workers who were doing work on the
(12) outside area of the home?
(13) A. I knew there had been construction workers
(14) there. What they were working on I don't remember.
(15) Q. Did Deborah convey to you any concern that she
(16) had about potentially the construction workers playing
(17) some role in that door being open?
(18) A. No.
(19) Q. When you were conducting this interview, were
(20) you taking notes?
(21) A. I was.
(22) Q. And do you retain those notes?
(23) A. They should be with the Master Supplement
(24) Report.

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(1) Q. I asked you before, but you weren't taking an
(2) audio recording of it?
(3) A. No.
(4) Q. Approximately how long were you with Deborah
(5) getting her interview?
(6) A. I don't remember. If I had to estimate, I
(7) would say it was less than an hour.
(8) Q. And what was the next thing you did after you
(9) conducted the interview with Deborah Fox?
(10) A. I will probably fail you in trying to recall
(11) what I did sequentially that day. I know there was a
(12) lot of interruption from medical staff and I was
(13) frequently getting updates from them, frequently
(14) getting updates from the scene via a cell phone. And
(15) I went in to look at Marissa to make sure that -- as
(16) protocol that there weren't any injuries that
(17) indicated to me that there was a criminal act.
(18) somewhat of a cursory examination just to be sure
(19) there was no signs of bruising, injury, ligature
(20) marks, anything -- anything like that. But my -- my
(21) next interview would have been with her mom.
(22) Q. That's Rochelle?
(23) A. Marissa's mom, yeah, Rochelle.
(24) Q. Where was that interview conducted?

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(1) A. In the same room.
(2) Q. And was she -- was it just you and Rochelle?
(3) A. It was -- it would have been us in the same
(4) corner. I would say the -- the room was at least this
(5) wide and probably twice the width -- or this long and
(6) at least twice the width.
(7) Q. Were you jotting notes down?
(8) A. Yes, yes.
(9) Q. And that's something that would also be
(10) contained in your file, evidence file?
(11) A. Yes, with the -- either in the evidence file
(12) or in the master report with -- attached to the master
(13) report.
(14) Q. What did Rochelle tell you?
(15) A. She was talking about how -- the same thing,
(16) the marital problems that her and her husband had been
(17) having and that they had been separated and there
(18) was -- there seemed to be a lot of conflict between
(19) the two of them concerning the children.
(20) I don't think that the children staying there
(21) was something that he approved of or desired as I'm
(22) sure is the case in many separations.
(23) She said that the -- the same thing, that
(24) there was going to be a religious celebration. I want

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(1) to say it was a Jewish -- pardon me for not knowing
(2) the proper terminology, but a Brisk or something of
(3) that nature.
(4) Q. Mm-hmm.
(5) A. And that there was going to be a lot of family
(6) coming in from out of town and some were staying there
(7) and some were staying in hotels. And there was a lot
(8) of -- a lot of preparation that her mom was doing to
(9) get ready for the celebration; that she had gone
(10) upstairs to -- solely to brush her teeth and back down
(11) again. And when she came back down, she said where's
(12) Marissa. Everybody was going I don't know, where's
(13) Marissa, and they started looking around. And
(14) frantically, obviously, one of the first places they
(15) checked was the pool and Marissa was face down in the
(16) water.
(17) She indicated to me that she had gone
(18) upstairs, brushed her teeth and returned back down and
(19) that her sister was making a phone call to her
(20) husband, who I believed was back in Florida, in an
(21) adjoining room but out of eye shot, if you will, of
(22) the pool area. And Marissa was -- you know, had been
(23) playing with toys when she had left her, when she had
(24) gone up to brush her teeth.

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[1] of the children in the property?

[2] **MR. HART:** Objection. You can answer
[3] the question if you understand it.

[4] **A.** A pool if it did not have a barrier in between
[5] to me would have been a hazardous condition. This
[6] door -- or there was a -- I understood that, although
[7] I didn't observe it myself, there was a barrier
[8] between the living space and the residence and the
[9] pool area that would have prevented -- if everything
[10] was the way it should have been that day, it would
[11] have prevented such a hazard.

[12] **BY MR. VAN NAARDEN:**

[13] **Q.** When you say barrier, do you mean the sliding
[14] door?

[15] **A.** The door.

[16] **Q.** Okay. Did you make a conclusion or a
[17] determination in your investigation conclusively as to
[18] who left that door open?

[19] **A.** Without looking at my notes, it was, from my
[20] recollection and my conclusion, that the grandmother
[21] -- the maternal grandmother had left that door open to
[22] request from the workers that they move that
[23] furniture.

[24] **Q.** I'm sorry, could you say that again?

[1] have been over -- overboard creating a hazard, then it
[2] would be where I would want -- want to consult with an
[3] Attorney General on whether to press charges for
[4] endangering, then it would have been more important
[5] for me to find out with some precision who left the
[6] door open and that would probably -- if I was
[7] considering that statute, I would have brought that
[8] person in and Mirandized them and sat them down and
[9] took an audio and videotaped statement.

[10] **Q.** And that wasn't done in this case?

[11] **A.** That was not done in this case because that
[12] hazardous condition did not exist.

[13] **Q.** Do you know how long construction workers were
[14] moving that furniture --

[15] **A.** No.

[16] **Q.** -- in between the outside or the inside?

[17] **A.** No.

[18] **Q.** Do you know how many trips they took from --
[19] to go from -- whether it be the pool house to the
[20] patio, from the patio to the pool house?

[21] **A.** No.

[22] **Q.** And did you ever -- did you ever conduct any
[23] interviews with the construction workers?

[24] **A.** No.

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[1] **A.** Sure. It was my recollection that the
[2] maternal grandmother had opened that door from the
[3] kitchen area to go ask the workers to move furniture
[4] for her as a favor.

[5] **Q.** While conducting your investigation, I
[6] understand your recollection when you talked to
[7] Rochelle -- or, rather, when you talked to Deborah
[8] that she indicated that the grandmother left the door
[9] open. And now that we've looked at the investigative
[10] report, I think we can agree that the interview taken
[11] of Rochelle at least says something different,
[12] correct?

[13] **A.** Mm-hmm, mm-hmm, yes.

[14] **Q.** Is that something that you would need to
[15] reconcile before you came to any conclusion about --
[16] as to who left the door open?

[17] **A.** No, not in this incident because the -- the
[18] statute that I would be concerning myself with
[19] criminally would have been one of endangering the
[20] welfare of a child. If -- it was my interpretation
[21] that the door had been left open for 20 minutes, 10
[22] minutes, 15 minutes. I don't know -- I don't know
[23] that I can give you a specific time limit, but
[24] something that a reasonable person would think would

[1] **Q.** That was done by Officer Santos?

[2] **A.** I believe so. I'm not sure. I'd have to
[3] refer to his supplement to be exact.

[4] **Q.** Well, I have his supplement here.

[5] **A.** Do you have it?

[6] **Q.** It's like three lines long.

[7] **A.** I would feel uncomfortable speaking of his
[8] interview in particular because I'm not Spanish
[9] speaking and I wasn't present for it.

[10] **Q.** Do you know of anybody else who conducted any
[11] interviews with the construction workers other than
[12] Officer Santos?

[13] **A.** Not without looking through the file. Yeah, I
[14] don't know of any to speak to.

[15] **Q.** Before you concluded your investigation in
[16] this case, you would have read over the statement that
[17] Officer Santos transcribed of the interview between
[18] him and Mr. Ortiz, correct?

[19] **A.** I would have either read it or it would have
[20] been a spoken conversation between me and Officer
[21] Santos.

[22] **Q.** Do you know if you had a conversation with --
[23] between you and Officer Santos relating to Mr. Ortiz'
[24] investigation?